

AMENDED IN ASSEMBLY APRIL 11, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL**No. 1360**

Introduced by Assembly Member Hancock

February 22, 2005

An act to add Section 25355.1 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, as amended, Hancock. Institutional control sites.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

The Carpenter-Presley-Tanner Hazardous Substance Account Act; imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act.

Existing law, the California Land Reuse and Revitalization Act of 2004, authorizes the Department of Toxic Substances Control, the State Water Resources Control Board, or a California regional water quality control board to enter into an agreement with a landowner to

oversee the assessment, cleanup, and reuse of a hazardous substance release site in a manner that is protective of public health and safety and the environment.

This bill would define the term “public health priority site” as a hazardous substance release site that is proposed to be used for certain residential, school, or other specified uses and as to which the department determines that a hazardous substance release on a site presents a potential human health risk to future residents or workers on the site or on adjacent sites under criteria, as specified.

The bill would require the cleanup and approval of future land uses for a site that meets those conditions to be ~~governed~~ *regulated* by the ~~department pursuant to the Presley-Carpenter-Tanner Hazardous Substances Account Act and would require the site to be regulated by the department or the California Land Reuse and Revitalization Act of 2004.~~ The bill would allow any agency or member of the public to request the department to determine whether a hazardous substance release site is a public health priority site.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The appropriate cleanup and redevelopment of brownfields
- 4 and other contaminated properties is vital to the protection of
- 5 human health and safety and the environment and to the
- 6 revitalization of our urban communities.
- 7 (b) Brownfield sites vary in technical complexity and a
- 8 complex site may present risks to human health from different
- 9 exposure pathways, including air, and may require enforcement
- 10 of long-term institutional controls, including, operations,
- 11 maintenance, monitoring, and restrictions on use.
- 12 (c) These complex brownfield sites need to be administered by
- 13 personnel with the necessary expertise to evaluate these risks and
- 14 enforce these controls. If a site is to be converted to residential
- 15 use, potential health risks and the need for effective institutional
- 16 controls are even more important.
- 17 (d) Brownfield sites also vary in controversy in the
- 18 community. Complex brownfield sites are usually more

1 controversial and require more interaction with the community
2 prior to approval of remedial action activities.

3 (e) It is the intent of the Legislature to assure that these
4 complex sites are regulated in a manner that assures the
5 availability of appropriate agency expertise and necessary
6 processes for approval of cleanup and future land uses.

7 SEC. 2. Section 25355.1 is added to the Health and Safety
8 Code, to read:

9 25355.1. (a) "Public health priority site" means a hazardous
10 substance release site subject to this section that meets both of
11 the following criteria:

12 (1) The site is proposed to be used for any of the uses set forth
13 in paragraph (1) of subdivision (b) of Section 25232.

14 (2) (A) The department determines that a hazardous substance
15 release on the site presents a potential human health risk to future
16 residents or workers on the site or on adjacent sites.

17 (B) A site that would require ongoing engineering or land use
18 controls after cleanup or other removal or remediation is deemed
19 to be a site that presents a potential human health risk to future
20 residents or workers on the site or on adjacent sites. For purposes
21 of this paragraph, a control solely to address groundwater
22 contamination that is not related to the health of future occupants
23 of the site is not a land use control.

24 (b) A person who is proposing any of the uses set forth in
25 paragraph (1) of subdivision (b) of Section 25232 and who
26 knows of a past or present hazardous substance release on the site
27 shall promptly notify the department so that the department can
28 make the determination set forth in paragraph (2) of subdivision
29 (a).

30 (c) Notwithstanding any other provision of law, the cleanup
31 and restriction of future land use for a public health priority site
32 ~~shall be exclusively governed by this chapter, and the department~~
33 ~~shall regulate the cleanup and restrict the future uses of the site.~~
34 *shall be exclusively regulated by the department pursuant to this*
35 *chapter or chapter 6.82 (commencing with Section 25395.60).* In
36 determining the appropriate cleanup for the site, the department
37 shall consult with the local regional water quality control board
38 regarding the protection of water quality. Nothing in this section
39 authorizes the department to grant local land use entitlements.

- 1 (d) This section does not require that a public health priority
- 2 site be listed pursuant to Section 25356.
- 3 (e) Any agency or member of the public may request the
- 4 department to determine whether a hazardous substance release
- 5 site is a public health priority site.